

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

DERRICK GIBSON
MSGT, U.S. ARMY,

and

STEVEN BROWN
SSG, U.S. ARMY, *et al*, for themselves
and all others similarly situated

Plaintiffs

V.

LLOYD AUSTIN
Secretary of Defense,
U.S. DEPARTMENT OF DEFENSE
Washington, D.C. 20301

Civil Action No. _____

and

**JANET WOODCOCK,
Acting Commissioner,
U.S. FOOD AND DRUG
ADMINISTRATION**

and

XAVIER BECERRA
Secretary of the U.S. Department of
Health and Human Services
U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES

Defendants

Declaration of **LIEUTENANT THOMAS P. BLANKENSHIP, USN**

I, Thomas P. Blankenship, Lieutenant, do hereby declare as follows:

1. I am over the age of 18 years, have personal knowledge of the matters set forth in this Declaration, and if called upon to testify to them, I would and could do so competently.

2. I am currently domiciled in Richardson, Collin County, Texas.
3. I am a Surface Warfare Officer in the United States Navy currently serving at Surface Warfare Officer School Command (SWOSCOLCOM) at Newport, Rhode Island.
4. I have served in the United States Navy since February of 2000 enlisting out of Plano, Texas. Over the years I have had an exemplary career marked by sustained superior performance in challenging billets from a diverse variety of Navy communities and commands. This includes numerous nuclear deterrent sea patrols on submarines (SSBN) in support of national strategic nuclear deterrence, multiple arduous sea intensive deployments on an Arleigh Burke class guided missile destroyer (DDG) in support of the Global War on Terrorism and Operation Enduring Freedom, expeditionary service with Assault Craft Units (LCAC), sea service on a Ticonderoga-class guided missile cruiser (CG), and sea service on an Avenger-class mine countermeasure ship (MCM). I am currently assigned to the staff of Surface Warfare Officer School Command.
5. In 2014 as a result of hard work and dedication to duty, I was selected to commission through the Limited Duty Officer Program as an Ensign. Previously I held the rank of Chief Petty Officer (Enlisted-7). In 2018, I was selected to redesignate and serve as a Surface Warfare Officer. I have been a Naval Officer for over 8 years.
6. Since recruit training in 2000, I have served honorably for over 22 years, and I will continue to do so God willing. Since taking my oath of office, 8 of those 22 years have been as a Naval Officer with the intent to Command at Sea. Throughout my career, I have deployed all over the world for our Nation's interests executing demanding missions and humanitarian efforts. I have received numerous commendations, awards, and campaign medals for these efforts. The men and women whom I have had the pleasure to work with

over the years inspired me to not only serve with honor, pride, and a sense of duty to my country, but ultimately helped lead me to my decision to make a career out of my Naval service. I am profoundly indebted to these sailors and feel a strong sense of responsibility to continue serving and mentoring those under my charge. Since 2020, I have mentored and instructed hundreds of Naval Officers in route to their first commands at Surface Warfare Officer School Command.

7. I submitted a Religious Accommodation (RA) request in response to the COVID shot mandate in September 2021.

8. In November 2021, after I submitted my RA, I was informed by my Executive Officer that my RA had been denied. The denial was from the Deputy Chief of Naval Operations. The denial contained many inaccurate statements which I thoroughly addressed in my appeal.

9. I recently had a documented case of Covid in December 2021. This was discussed in my appeal and my positive antibodies test was enclosed as an addendum.

10. Through written statements and the RA / Appeal processes, I have repeatedly tried to explain to my chain of command the difference between the licensed product, Comirnaty, the EUA-only Pfizer product, and my concerns with the lawfulness of the order to take the EUA product. I have been told repeatedly through written counseling or denial letters that these differences do not matter and that I need to follow these "lawful orders."

11. I appealed the initial denial on January 10, 2022 to the Chief of Naval Operations. That appeal is currently pending as of PRESENT.

12. True and correct copies of the vaccination order, the first denial, and my appeal submission can be attached as required.

13. I am facing termination from military service and possibly a less than Honorable discharge for my service, loss of my eligibility for VA benefits, loss of my post-9/11 GI Bill benefits, and recoupment costs for training and education.

14. If I do not get the COVID shot, the process of reporting misconduct by the command will immediately begin to take place. This report makes me ineligible for command, ineligible for Permanent Change of Station (PCS) orders, ineligible for promotion boards, ineligible for Professional Military Education boards, ineligible for career level schools, ineligible for deployments, and ineligible for all other normal career progressions.

15. In addition, the process of misconduct will initiate the Board of Inquiry (BOI) Process, where I will be required to go before an administrative hearing to determine whether I should be stripped of my commission and removed from the military for “misconduct.” For me and all others unable to get the COVID shot because of our religious beliefs, this allegation of “misconduct” will be “substantiated” absent injunctive relief, because they have given us a “lawful order,” and denied our religious accommodation requests.

16. Within my personal knowledge, every COVID refusal has been recommended for separation. At the time of separation, the BOI will determine at what grade I will be retired. Typically for “misconduct,” the officer is retired at the grade last “honorably” served. However, because of my unique commissioning source and being a prior enlisted Officer, I will be downgraded to the Enlisted Paygrade of E-7 for retirement purposes. This is due to failing to meet time in service (TIS) requirements of 10 years for Officers in the Navy to retire as an Officer. *There are SIGNIFICANT pay differences and implications*

between Officer vs Enlisted retirements and these differences would carry on for the remainder of my retirement.

17. Absent the allegation of misconduct being formally found “unsubstantiated,” an officer will not simply be removed from the reporting of misconduct process and the BOI and ultimate separation process for me will not stop without injunctive relief.

18. My vaccination status did not prevent me from continuing to execute the mission of the United States Navy. From December 2019 to PRESENT, and throughout the entire pandemic, I have continued to serve as a lead instructor for the Surface Warfare Officer School Command. In this role, and in addition to my other responsibilities, I have been in contact with hundreds of students ensuring they received relevant ready training preparing them for their upcoming tours and missions. COVID has not had any predictable or detrimental effect on my readiness or the readiness of the personnel who serve alongside of me in my training environment. I have not missed any work due to COVID or any associated symptoms. Moreover, I have been approved numerous times to travel out of state for either work (officially) or for personal reasons during the entirety of this process and the pandemic, without the COVID shot.

My concerns with the lawfulness of the order to receive the COVID shot, as well as my sincere and deeply held religious beliefs regarding the COVID shot, have been documented through the entirety of this process. More importantly, I took an oath to support and defend the Constitution against all enemies, foreign and domestic. I have an obligation, confirmed by multiple court cases, to resist unlawful orders. This declaration is my continued attempt to fulfill my oath to the Constitution and to fight for people I am charged with leading.

I declare under penalty of perjury, under the laws of the United States, that the foregoing statements are true and correct to the best of my knowledge.

Executed this March 25, 2022.



Thomas P. Blankenship, Lieutenant, USN